



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Martine Fennelly

App. No. : 10/692,835

Filed : October 23, 2003

For : **RIDING APPARATUS AND
METHOD**

Examiner : Nguyen, Son T.

Group Art Unit: 3643

**27299**

PATENT & TRADEMARK OFFICE

DECLARATION OF MARTINE FENNELLY UNDER 37 C.F.R. § 1.132

I, Martine Fennelly, a resident alien of the United States, hereby declare and state as follows:

1. I am the President and CEO of Fleeceworks, Inc. ("Fleeceworks"), owner and inventor of U.S. Patent Application No. 10/692,835 (the '835 Application from hereon), which describes the claimed proprietary technology as set forth in Claims 70, 80, 87, 89, 90, 94 and 96 discussed subsequently herein (hereinafter the "Fleeceworks Invention"). I have been President and CEO of Fleeceworks or its predecessor companies since October 2003. During that time, I have been involved in the design, development and testing of the products incorporating the Fleeceworks Invention.

2. The Fleeceworks Invention is included or used in the following products: "Perfect Balance Pad", hereafter referred to as "PBP", as well as "Perfect Balance Half-pad", the "Showhunter" (also with the Perfect Balance System) as well as a recently introduced line of

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wool pads with the Perfect Balance System. See www.fleeceworks.com for additional information.

3. I have more than thirty (30) years experience in equestrian activities and riding, and have extensive knowledge of other equestrian products in the marketplace.

4. The PBP identified in Par. 2 above correlate to at least the currently pending Independent Claims 70, 80, 87, 89, 90, 94 and 96, and dependent Claims 73, 74, 76, 77, 78, 83, 84, 85, 86, and 88 of the '835 Application in the manner demonstrated below.

5. The following tables a. – r. compare each of Independent and dependent Claims of the '835 Application listed above to the PBP Product.

a. Independent Claim 70

Claim Recitation	"PBP" Product
70. Saddle pad apparatus adapted to support a saddle while maintaining substantially unimpeded movement of the spinal column of a living subject, comprising	The PBP Product is adapted to support a saddle while maintaining substantially unimpeded movement of the spinal column of an equine.
a first pad disposed laterally to one side of said spine and	The PBP Product has, as one of its configurations, a first pad disposed laterally to one side of the spine.
a second pad disposed laterally to the other side of said spine	The PBP Product has, as one of its configurations, a second pad disposed laterally to the other side of the spine.
so that said first and second pads straddle said spinal column and are sufficiently distant therefrom so that said saddle pad apparatus does not impede movement of the spinal column of said living subject by forming a space between said spinal column and said saddle pad apparatus,	The first and second plurality of pads of the PBP Product straddles the spinal column and are sufficiently distant therefrom so as not to impede movement of the spinal column of the equine by forming a space between the spinal column and the PBP Product
each of said pads being adapted to individually cooperate with one or more gaps or recesses of the anatomy of the living subject;	Each of the pads on the PBP Product are adapted to individually cooperate with a specific feature of the anatomy of the equine.
wherein at least a portion of said one or more gaps or recesses are disposed in the withers region of the subject.	At least a portion of the pads on the PBP Product are adapted to cooperate with the withers region of an equine.

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b. Dependent Claim 73

Claim Recitation	"PBP" Product
73. The apparatus of Claim 70, wherein at least a portion of said plurality of pads are formed from a visco-elastic foam material.	The PBP Product uses visco-elastic foam pads.

c. Dependent Claim 74

Claim Recitation	"PBP" Product
74. The apparatus of Claim 70, wherein said plurality of pads are disposed in pockets formed substantially between a first layer and a second layer of material.	The PBP Product uses pads disposed in pockets formed substantially between a first layer and a second layer of material.

d. Dependent Claim 76

Claim Recitation	"PBP" Product
76. The apparatus of Claim 74, wherein said first layer and second layer comprise sheepskin and a fiber-based material, respectively, said sheepskin being disposed to contact the skin of said living subject, said fiber-based material being disposed to contact said saddle.	The PBP Product comprises a first layer and second layer that comprise sheepskin and a fiber-based material, respectively, the sheepskin being disposed to contact the skin of the living subject, said fiber-based material being disposed to contact said saddle.

e. Dependent Claim 77

Claim Recitation	"PBP" Product
77. The apparatus of Claim 76, wherein said living subject comprises an equine.	The PBP Product is adapted for use on an equine.

f. Dependent Claim 78

Claim Recitation	"PBP" Product
78. The apparatus of Claim 70, wherein said apparatus is further adapted to mitigate rocking of said saddle back and forth on said living subject during riding.	The PBP Product is adapted to mitigate rocking of said saddle back and forth on said living subject during riding.

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g. Independent Claim 80

Claim Recitation	"PBP" Product
80. Saddle pad apparatus adapted to support a saddle on a living subject, comprising:	The PBP Product is adapted to support a saddle on a living subject.
a plurality of pads that distribute load from said saddle substantially evenly on said living subject to avoid contact with the living subject's spinal column over only a plurality of non-contiguous regions of said living subject's anatomy	The PBP Product comprises a plurality of pads that distribute the load substantially evenly on the equine over only a plurality of non-contiguous regions of the equine's anatomy and avoid contact with the equine's spinal column.
such that during riding said saddle is substantially stable around a rotational axis transverse to the longitudinal axis of the spinal column of said subject;	The PBP Product distributes the load on the equine such that during riding the saddle is substantially stable around a rotational axis transverse to the longitudinal axis of the spinal column of the equine.
wherein said plurality of pads are disposed laterally to said spine in pockets formed substantially between a first layer and a second layer of material; and wherein said first layer and second layer comprise sheepskin and a fiber-based material, respectively, said sheepskin being disposed to contact the skin of said living subject, said fiber-based material being disposed to contact said saddle.	The PBP Product has its plurality of pads disposed laterally to the spine in pockets, wherein the pockets are formed of a sheepskin layer disposed to contact the skin of the equine and a fiber-based material layer disposed to contact the saddle.

h. Dependent Claim 83

Claim Recitation	"PBP" Product
83. The apparatus of Claim 80, wherein at least a portion of said plurality of pads are formed from a visco-elastic foam material.	The PBP Product uses pads at least a portion of which are formed from a visco-elastic foam material.

i. Dependent Claim 84

Claim Recitation	"PBP" Product
84. The apparatus of Claim 80, wherein said plurality of pads are made removable from said pockets via Velcro strips disposed at seams of said pockets.	The PBP Product comprises a plurality of pads that are made removable from said pockets via Velcro strips disposed at seams of said pockets.

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j. Dependent Claim 85

Claim Recitation	"PBP" Product
85. The apparatus of Claim 83, wherein said living subject comprises an equine.	The PBP Product is adapted for use on an equine.

k. Dependent Claim 86

Claim Recitation	"PBP" Product
86. The apparatus of Claim 85, wherein said apparatus is further adapted to support said saddle while maintaining substantially unimpeded movement of the spinal column of said living subject.	The PBP Product is adapted to support a saddle while maintaining substantially unimpeded movement of the spinal column of an equine.

l. Independent Claim 87

Claim Recitation	"PBP" Product
87. A saddle pad adapted for use with a saddle on an equine, comprising:	The PBP Product is adapted for use with a saddle on an equine.
first and second substantially flexible elements having roughly the same shape,	The PBP Product comprises first and second substantially flexible elements having roughly the same shape.
said first and second elements being bound together in at least a plurality of locations along their periphery,	The first and second elements of the PBP Product are bound together in at least a plurality of locations along their periphery.
said first element comprising a thick sheepskin and being in direct contact with the skin of said equine; and	The PBP Product thick sheepskin first element is in direct contact with the skin of the equine.
a plurality of compressible visco-elastic foam pad elements disposed between said first and second flexibly elements,	The PBP Product comprises a plurality of compressible visco-elastic foam pad elements disposed between the first and second flexibly elements.
said pad elements straddling the spine of said equine at a distance whereby said saddle pad is not in contact with the spinal column of said equine during riding,	The PBP Product pad elements straddle the spine of the equine and are disposed within the saddle pad and sufficiently distant from the spine such that the PBP Product is not in contact with the spine of the equine during riding.
wherein substantial weight redistribution of said saddle in a front-back direction is frustrated by said pad elements; and	Substantial weight redistribution of the saddle in a front-back direction is frustrated by the pad elements of the PBP Product comprises.

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Claim Recitation	"PBP" Product
wherein said unimpeded spine movement, said frustration of redistribution, and said first flexible element cooperate to provide reduced discomfort for said equine during said riding.	The unimpeded spine movement, the frustration of redistribution, and the first flexible element cooperate to provide reduced discomfort for the equine during riding with the PBP Product.

m. Dependent Claim 88

Claim Recitation	"PBP" Product
88. The saddle pad of Claim 87, further comprising at least one peripheral ridge disposed substantially along a front or back periphery of said first and second elements, said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding.	The PBP Product comprises at least one peripheral ridge disposed substantially along a front or back periphery of said first and second elements, said peripheral ridge cooperating with an edge of the saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding.

n. Independent Claim 89

Claim Recitation	"PBP" Product
89. A saddle pad adapted for use, with a saddle, on an equine, comprising:	The PBP Product comprises a saddle pad adapted for use, with a saddle, on an equine.
first and second substantially flexible elements having roughly the same shape,	The PBP Product comprises first and second substantially flexible elements having roughly the same shape.
said first and second elements being bound together in at least a plurality of locations along their periphery,	The first and second elements of the PBP Product are bound together in at least a plurality of locations along their periphery.
said first element comprising sheepskin in direct contact with the skin of said equine and said second element comprising a fiber-based material disposed to contact said saddle;	The first element is in direct contact with the skin of the equine in the PBP Product and comprises sheepskin. The second element is in direct contact with the saddle in the PBP Product and comprises a fiber-based material.
a plurality of compressible visco-elastic foam pad elements disposed between said first and second flexible elements,	The PBP Product comprises a plurality of compressible visco-elastic foam pad elements disposed between the first and second flexible elements.
a first portion of said plurality of pad elements having a first shape and an optional second portion of said plurality of said pad elements having a second shape,	A first portion of the plurality of pad elements have a first shape and an optional second portion of the plurality of the pad elements have a second shape on the PBP Product.

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Claim Recitation	"PBP" Product
Said pad elements adapted to straddle the spine of said equine with at least a portion of said plurality disposed within said saddle pad and sufficiently distant from said spine such that the movement of the spine of said equine is substantially unimpeded by said saddle and said pad elements during riding,	The PBP Product pad elements straddle the spine of the equine and are disposed within the saddle pad and sufficiently distant from said spine such that the movement of the spine of the equine is substantially unimpeded by the saddle and the pad elements during riding.
first and second restraining straps affixed to at least said second flexible element, said straps each being adapted for substantially concealed tethering to said saddle; and	The PBP Product comprises first and second restraining straps affixed to the second flexible element. The straps are each adapted for substantially concealing tethering to the saddle.
at least one peripheral ridge disposed substantially along a front or back periphery of said first and second elements,	The PBP Product comprises at least one peripheral ridge disposed substantially along a front or back periphery of the first and second elements.
said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding;	The PBP Product peripheral ridge cooperates with an edge of the saddle to substantially frustrate relative motion between the saddle pad and the saddle in at least one direction during riding.
wherein said pad elements having said first shape are adapted to interface with gaps formed in the withers region of said animal, whereas said optional pad elements having said second shape are adapted to interface with gaps formed in the region of the animal directly under a rear portion of said saddle.	The pad elements of the PBP Product that have the first shape are adapted to interface with gaps formed in the withers region of the animal, whereas the optional pad elements having the second shape are adapted to interface with gaps formed in the region of the animal directly under a rear portion of the saddle.

o. Independent Claim 90

Claim Recitation	"PBP" Product
90. Tilt-inhibiting saddle pad apparatus, comprising:	The PBP Product comprises a tilt-inhibiting saddle pad apparatus.
a body element having a plurality of pockets formed therein;	The PBP Product comprises a body element having a plurality of pockets formed therein.
said plurality of pockets formed substantially between a first layer and a second layer of material, said first layer comprising sheepskin disposed to contact the skin of an animal and said second layer comprising a fiber-based material being disposed to contact a saddle;	The PBP Product has its plurality of pockets formed between a sheepskin layer disposed to contact the skin of the equine and a fiber-based material layer disposed to contact the saddle.
a plurality of visco-elastic foam pad elements disposed within respective ones of said pockets; and	The PBP Product comprises a plurality of visco-elastic foam pad elements disposed within respective ones of the pockets.

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Claim Recitation	"PBP" Product
an optional contour element adapted to be disposed within a respective one of said pockets,	The PBP Product comprises an optional contour element disposed within a respective one of the pockets.
said optional contour element having physical properties that when used in cooperation with said pad elements and the anatomy of said animal on which said pad apparatus and a saddle are disposed, maintain said saddle in a substantially constant orientation with respect to said animal.	The optional contour element of the PBP Product has physical properties adapted to cooperate with the pad elements and the anatomy of an animal on which the pad apparatus and a saddle are disposed to maintain the saddle in a substantially constant orientation with respect to the animal.

p. Independent Claim 91

Claim Recitation	"PBP" Product
91. A pad element comprising a plurality of substantially rounded edges adapted for use in a saddle pad,	The PBP Product comprises a pad element comprising a plurality of rounded edges adapted for use in a saddle pad.
wherein said pad element is formed from a visco-elastic foam and is adapted for selective removal from said saddle pad by a user; and	The PBP Product pad element is formed from a visco-elastic foam and is adapted for selective removal from the saddle pad by a user.
wherein said pad element is particularly shaped to accommodate a particular withers region artifact on the anatomy of an animal on which said pad element and saddle pad is utilized.	The PBP Product pad element is particularly shaped to substantially accommodate a particular withers region artifact on the anatomy of an animal on which the pad element and saddle pad is utilized.

q. Independent Claim 94

Claim Recitation	"PBP" Product
94. Apparatus adapted for use on high-withered animals, comprising:	The PBP Product is adapted for use on high-withered animals.
a substantially flexible pad comprising a plurality of pockets formed substantially between a first layer and a second layer of material and adapted to capture respective ones of pad elements;	The PBP Product comprises a substantially flexible pad having a plurality of pockets between a first layer and a second layer of material and adapted to capture respective ones of pad elements.
wherein said first layer and second layer comprise sheepskin and a fiber-based material, respectively, said sheepskin being disposed to contact the skin of said high-withered animals, said fiber-based material being disposed to contact a saddle;	The PBP Product has its plurality of pockets formed between a sheepskin layer disposed to contact the skin of the equine and a fiber-based material layer disposed to contact the saddle.

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Claim Recitation	"PBP" Product
a plurality of visco-elastic foam pad elements captured by respective ones of said pockets;	The PBP Product comprises a plurality of visco-elastic foam pad elements captured by respective ones of the pockets.
wherein said pad elements and said pad cooperatively form a raised feature element to raise a frontal portion of a saddle disposed over top of said pad element with respect to a withers region in order to mitigate tilting or rocking of the saddle.	The PBP Product pad elements and pad cooperatively form a raised feature element to raise a frontal portion of a saddle disposed over top of the pad element with respect to a withers region in order to mitigate tilting or rocking of the saddle.

r. Independent Claim 96

Claim Recitation	"PBP" Product
96. A coordinated riding system for use on an animal, comprising:	The PBP Product comprises a coordinated riding system for use on an animal.
a pad retaining structure comprising a plurality of pockets formed substantially between a first layer and a second layer of material and adapted to capture respective ones of pad elements, said first layer and second layer comprise sheepskin and a fiber-based material, respectively, said sheepskin being disposed to contact the skin of said high-withered animals, said fiber-based material being disposed to contact a saddle;	The PBP Product comprises a pad retaining structure comprising a plurality of pockets. The PBP Product has its plurality of pockets formed between a sheepskin layer disposed to contact the skin of the equine and a fiber-based material layer disposed to contact the saddle.
a plurality of visco-elastic foam pad elements that straddle the spinal column and are sufficiently distant from a spinal column of said animal so as to not impede movement thereof during animal ambulation,	The PBP Product comprises a plurality of visco-elastic pad elements that straddle the spinal column and are sufficiently distant from a spinal column of said animal so as to not impede movement thereof during animal ambulation.
said plurality of pad elements being retained by said structure and adapted to provide a substantially uniform distribution of pressure and withers support; and	The PBP Product plurality of pad elements are retained by the structure and adapted to provide a substantially uniform distribution of pressure and withers support.
an interface element disposed between said animal and said pad elements,	The PBP Product comprises an interface element disposed between the animal and the pad elements.
said interface element being adapted to provide substantial pressure dissipation, moisture dissipation, and thermal dissipation.	The PBP Product interface element is adapted to provide substantial pressure dissipation, moisture dissipation, and thermal dissipation.

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6. I have complete access to and personal knowledge of Fleecework's confidential sales information related to the PBP Product.

7. I have read the '835 Application.

8. I have been asked to submit this declaration to demonstrate the commercial success of the PBP Product.


9. In 2004, Fleeceworks began full distribution of the PBP Product, which is used in accordance with the teachings of the '835 Application, and specifically the various claimed inventions as set forth in Par. 5 above.

10. During the fiscal year of 2004, the first year in which the PBP Product was sold, approximately 928 units incorporating the Fleeceworks Invention were sold. This resulted in total first year sales of approximately \$70,000. The following year (2005), 2,764 units incorporating the Fleeceworks Invention were sold resulting in annual 2005 sales of approximately \$205,500, resulting in nearly a 200% year-over-year growth in the sales of the PBP product. As reference for comparison, Fleeceworks most popular other saddle pad product (not a PBP product) for years 2004 and 2005 (the Halfpad with Wither Relief) sold 3,472 units in 2004 and 4,073 units in 2005, resulting in only a modest year over year growth of 17%. **Hence, the PBP Product showed dramatically higher rates of sales increase over its initial years than existing (non-PBP) pad products.** The undersigned attributes this great increase in sales directly to the features described above.

11. Exhibit I hereto provide a sampling of anecdotal evidence obtained by the undersigned relating to the ability of the PBP Product to satisfy needs and address applications which other prior art products do not address including, *inter alia*, "high withered" animals, and animals with undeveloped topline and various saddle fit problems.

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12. All statements made herein of my own knowledge are true, and all statements made on information and beliefs are believed to be true. These statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Martine Fennelly
Inventor of '835 Application, and
President/CEO - Fleeceworks, Inc.

DATE: Nov. 29, 2006

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EXHIBIT I

YAHOO! MAIL

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Date: Wed, 22 Jun 2005 12:41:44 +1000

From: [REDACTED]

To: information@fleeceworks.com

Subject: Perfect Balance Pad Query

Hi,

I'm writing in regards to the Perfect Balance Pad. I have been advised by a saddle-fitter in Melbourne, Australia that the Perfect Balance Pad would be ideal for my horse as he is 20 yrs old and is getting a bit of a sunken back and has a high wither.

I was wondering where I can purchase one of these saddle pads in Australia (i.e. do you have distributors in Australia) and whether the inserts come with the saddle blanket or not.

Also, if I were to order one from you, how much would it approximately cost to get the saddle blanket and full inserts (i.e. my saddle needs to be lifted at the front and at the back) sent to Melbourne, Australia?

If you could let me know the above, it would be greatly appreciated.

Kind Regards,

[REDACTED]

YAHOO! MAIL

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Date: Sat, 06 Aug 2005 16:41:21 -0700

From:

Subject:

To: information@fleeceworks.com

Hello from Tucson, Az. I just requested a catalog of your products. I'm interested in your half pad with inserts to lift the front of my wintec dressage saddle on my slightly downhill morgan mare. The retail shops you list for Az. are a good distance from where I live. Could you please gift me a list of catalog companies who carry your saddle pads.

My e-mail address is [REDACTED] I manage a small gift shop for San Xavier Mission here in Tucson.

My husband and I delivered a horse to California this past week. One highlight of the trip, was to see Debbie Hernandez works her horses. She has two (or more) of your pads which she highly recommends. [REDACTED]

YAHOO! MAIL

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From: [REDACTED]
To: information@fleeceworks.com
Subject:
Date: Fri, 11 Nov 2005 07:27:13 -0800

Hello,

I need a saddle pad that will raise the front of my All Purpose Bates saddle since it sits a bit low in the front. I thought that your company offered a pad that had inserts to achieve balance in the saddles position with pockets for "lift pads at the front and rearer of the saddle pad. I didn't see anythinkg like that on your website.

Thank you for any help,

[REDACTED]

Santa Barbara, CA

YAHOO! MAIL

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Date: Thu, 10 Nov 2005 06:01:31 -0600 (GMT-06:00)

From:

To: information@fleeceworks.com

Subject: saddle pad

I have a horse who is extremely difficult to fit a saddle to and after having had 2 "custom" saddles made that don't fit properly., I am distrusting of saddle makers and don't want to go to the expense of getting yet another saddle. I currently am using a 1/2 sheep skin pad to cushion his back but would prefer a full close contact pad like your show hunter or field hunter. I like the idea of the perfect balance system but my saddle is an 18 1/2 " show jumping saddle and I wonder if the system could be put into a field hunter pad. If so, I assume the best thing to do would be to get a pad locally to be sure that it fits with my saddle and then send it to you to have it retro fitted. Would this be possible? Thanks, [REDACTED]